

CODE ENFORCEMENT OFFICE
645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

07-02-2015

RECEIVED
FEB 13 2016

JOSEPH KROGER
ALTHEA LOUISE KROGER
124 SUNSET CLIFF
BURLINGTON VT 05408

DEPARTMENT OF
PLANNING & ZONING

RE: 124 Sunset Cliff Road Burlington, Vermont

Dear Owners,

According to our records, you are the owner of record of the above-referenced property. This letter is to inform you that the Code Enforcement Office has received the following complaint(s) regarding this property:

- **Change of Use - established accessory apartment attached to Single Family House or converting to a Duplex without Zoning Approval.**

Our office has initiated an investigation regarding the complaint(s), however, as of this date; a final determination has not been made. Should you have any information that you believe will be useful to us during our investigation, please submit it to the Code Enforcement Office, **in written form, within the next ten (10) business days**.

This is your opportunity to provide information to refute the allegation(s) prior to our issuance of a formal determination and possibly a Notice of Violation. Information that may be helpful includes, but is not limited to, the following:

- Permits which document that the condition that is alleged to be in violation has been approved by the City.
- Photographs of the property and/or other documents (both current and historical with verifiable dates) that demonstrate the alleged violation does not exist, has been remedied, or has existed for more than 15 years.
- * • Affidavits from yourself and other persons who are aware of facts relevant to the allegation(s) that testify to the fact that the alleged violation does not exist, has been remedied, or has existed for more than 15 years.

Please note, while any information from you as the property owner is useful, the investigation will occur with or without the information. This letter is intended to give you notice of the alleged complaint(s) against your property and to provide you an opportunity to refute the allegation prior to a formal determination being issued.

Should you have questions, please don't hesitate to call me at 863-0442.

Sincerely,

Jeanne Francis, Zoning Specialist

Information available in alternative media forms for people with disabilities.
For disability access information call (802) 865-7121 or (802) 863-0450 TTY.
An Equal Opportunity Employer

Joseph Kroger
124 Sunset Cliff Rd
Burlington VT 05408
July 7, 2015

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Code Enforcement Office
645A Pine St. PO Box 849
Burlington VT 05402-0849

Dear Jeanne Francis, Zoning Specialist

DEPARTMENT OF
PLANNING & ZONING

I am writing in response to your letter of July 2 in which you refer to a "Change of Use—established accessory apartment to Single Family House or converting to a Duplex without Zoning Approval."

There has never been a "change of use" as you describe at my home at 124 Sunset Cliff Rd. In fact, one of the reasons my wife and I decided to purchase the house in March 1994 (**addressed at that time as "2 Sunset Cliff Rd"**) was because there was **already an apartment** located in the back of the house with two separate and independent entrances (one off the apartment living room and the other off the apartment kitchen). I am submitting a copy of the "Uniform Residential Appraisal Report" we received at that time which mentions that the house included **an apartment in use.**

[Sometime around 1999-2000, the city of Burlington renumbered all the houses on Sunset Cliff Rd. 2 Sunset Cliff Rd. became 124 Sunset Cliff Rd. From that time on there is no other "2 Sunset Cliff Rd". All references to "2 Sunset Cliff Rd. refer to my house 124 Sunset Cliff Rd. I emphasize this because it has been the source of some confusion.]

When my wife and I asked at City Hall if we could continue using the three rooms in the back of the house (living room, kitchen, bedroom and bathroom) as an apartment, we were told yes, because the apartment had been in use for many years it was "grandfathered in" and we did not need to apply again for additional zoning approval. I have no document to prove this conversation. However, I do have

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DEPARTMENT OF
PLANNING & ZONING

several documents which show that a few months after we purchased the house in March 1994, **specifically in August 1994, we began renting the apartment, and have continued to rent the apartment every year for the past twenty-one years, six years longer than the 15 year term referenced in your letter.**

In addition to this letter I am submitting the following documents which testify to "the fact that the alleged violation does not exist, has been remedied, or **has existed for more than 15 years.**"

1. The "Uniform Residential Appraisal Report" we were given in 1994 which mentions the "apartment in use".
2. A list of the renters each year for the past 22 years and the amount of rent collected. The renters have almost all been medical or graduate students at UVM.
3. Copy of a letter from Emily Trask-Eaton (a med student who rented in 1997-1998 (18 years ago) sent to us which mentions the apartment she was renting.
4. Copy of an email sent by Karen Halle (a med student who rented from 1999 to 2003) on my behalf in which she mentions renting the apartment.
5. **Copies of the schedule E (Form 1040) which I filed for the past twenty-one years with the IRS from 1994 to 2014 reporting the income I received from the rental of the apartment at 2 Sunset Cliff Rd (aka 124 Sunset Cliff Rd.)**
6. A letter from my tax accountant, James R. Bessette, who prepared all the IRS tax forms referenced above and submitted to you, testifying to the fact that I have been renting the apartment at 2 Sunset Cliff Rd (aka 124 Sunset Cliff Rd) for the past twenty-one years.

Sincerely,

Joseph Kroger

James R. Bessette, CPA, P.C.
Certified Public Accountants

james@bessette.com
www.james.bessette.com
fax (802) 861-4201

89-A Ethan Allen Drive
South Burlington, VT 05403
(802) 861-4200

July 7, 2015

Ms. Jeanne Francis
Zoning Specialist
Code Enforcement Office
645A Pine Street
PO Box 849
Burlington, VT 05402-0849

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DEPARTMENT OF
PLANNING & ZONING

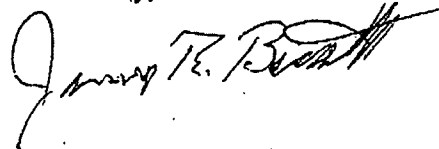
Dear Ms. Francis,

Mr. Joseph Kroger asked that I communicate with you concerning the apartment in the house located at 124 Sunset Cliff Road, Burlington, VT.

I have known Joseph Kroger for approximately thirty years. I have helped him prepare his tax returns since 1987. In 1994 Joseph and Althea purchased their residence and apartment, now known as 124 Sunset Cliff Road. In August of that year they rented the apartment, and have continuously rented it since that time.

If you have any further questions regarding this matter, please don't hesitate to contact me.

Sincerely,



James R Bessette, CPA

SCHEDULE E
(Form 1040)

Department of the Treasury
Internal Revenue Service (7)

Supplemental Income and Loss

(From rental real estate, royalties, partnerships,
S corporations, estates, trusts, REMICs, etc.)

▶ Attach to Form 1040 or Form 1041. ▶ See instructions for Schedule E (Form 1040).

OMB No. 1545-0074

1994

Attachment
Sequence No. **13**

Name(s) shown on return

Your social security number

Joseph W. and Althea L. Kroger

Part I **Income or Loss From Rental Real Estate and Royalties** Note: Report income and expenses from your business of renting personal property on Schedule C or C-EZ (see page E-1). Report farm rental income or loss from Form 4835 on page 2, line 39.

1 Show the kind and location of each rental real estate property:	2 For each rental real estate property listed on line 1, did you or your family use it for personal purposes for more than the greater of 14 days or 10% of the total days rented at fair rental value during the tax year? (See page E-1.)	Yes	No
A Apartment 2 Sunset Cliffs Burlington, VT		A	X
B		B	
C		C	

Income:		Properties			Totals (Add columns A, B, & C.)
		A	B	C	
3 Rents received	3	2,588			3 2,588
4 Royalties received	4				4
Expenses:					
5 Advertising	5				
6 Auto and travel (see page E-2)	6				
7 Cleaning and maintenance	7				
8 Commissions	8				
9 Insurance	9	125			
10 Legal and other professional fees	10				
11 Management fees	11				
12 Mortgage interest paid to banks, etc. (see page E-2)	12	1,633			12 1,633
13 Other interest	13				
14 Repairs	14				
15 Supplies	15				
16 Taxes	16	652			
17 Utilities	17	135			
18 Heating fuel		94			
Cable		115			
Trash removal		24			
Water		25			
Amortization		46			
	18				
19 Add lines 5 through 18	19	2,849			19 2,849
20 Depreciation expense or depletion (see page E-2)	20	1,118			20 1,118
21 Total expenses. Add lines 19 and 20	21	3,967			
22 Income (loss) from rental real estate or royalty properties. Subtract line 21 from 3 (rents) or 4 (royalties). If result is (loss), see page E-2 to find out if you must file Form 6198	22	-1,379			
23 Deductible rental real estate loss	23	(1,379)			
24 Income. Add positive amounts shown on line 22. Do not include any losses	24				
25 Losses. Add royalty losses from line 22 and rental real estate losses from line 23. Enter the total losses here	25				(1,379)
26 Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 39 on page 2 do not apply to you, also enter this amount on Form 1040, line 17. Otherwise, include this amount in the total on line 40 on page 2	26				-1,379

For Paperwork Reduction Act Notice, see Form 1040 Instructions.

Schedule E (Form 1040) 1994

SCHEDULE E
(Form 1040)

Department of the Treasury
Internal Revenue Service (99)
Name(s) shown on return

Supplemental Income and Loss

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

▶ Attach to Form 1040, 1040NR, or Form 1041.

▶ Information about Schedule E and its separate instructions is at www.irs.gov/schedulee.

OMB No. 1545-0074

2014

Attachment
Sequence No. **13**

Your social security number

Joseph W Kroger

Part I Income or Loss From Rental Real Estate and Royalties Note. If you are in the business of renting personal property, use Schedule C or C-EZ (see instructions). If you are an individual, report farm rental income or loss from Form 4835 on page 2, line 40.

- A Did you make any payments in 2014 that would require you to file Form(s) 1099? (see instructions) ☐ Yes ☐ No
B If "Yes," did you or will you file required Forms 1099? ☐ Yes ☐ No

1a	Physical address of each property (street, city, state, ZIP code)				
A	124 Sunset Cliff Road Burlington VT 05401				
B	1 Ocean Terrace 350 St. Augustine FL 32080				
C	ROYALTIES				
1b	Type of Property (from list below)	2 For each rental real estate property listed above, report the number of fair rental and personal use days. Check the QJV box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
A	2		365	0	<input type="checkbox"/>
B	1		365	0	<input type="checkbox"/>
C	6				<input type="checkbox"/>

Type of Property:

- 1 Single Family Residence 3 Vacation/Short-Term Rental 5 Land 7 Self-Rental
2 Multi-Family Residence 4 Commercial 6 Royalties 8 Other (describe)

Income:		Properties:	A	B	C
3	Rents received	3	7,700	27,565	
4	Royalties received	4			101
Expenses:					
5	Advertising	5			
6	Auto and travel (see instructions)	6			
7	Cleaning and maintenance	7		125	
8	Commissions	8			
9	Insurance	9	274	627	
10	Legal and other professional fees	10	150	150	
11	Management fees	11		5,099	
12	Mortgage interest paid to banks, etc. (see instructions)	12	2,387		
13	Other interest	13			
14	Repairs	14	2,654	210	
15	Supplies	15		623	
16	Taxes	16	3,254	2,916	
17	Utilities	17	1,382	1,704	
18	Depreciation expense or depletion	18	4,004	3,542	
19	Other (list) ▶ Statement #2	19	1,122	7,911	
20	Total expenses. Add lines 5 through 19	20	15,227	22,907	
21	Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file Form 6198	21	(7,527)	4,658	101
22	Deductible rental real estate loss after limitation, if any, on Form 8582 (see instructions)	22	(5,063)		
23a	Total of all amounts reported on line 3 for all rental properties	23a	35,265		
b	Total of all amounts reported on line 4 for all royalty properties	23b	101		
c	Total of all amounts reported on line 12 for all properties	23c	2,387		
d	Total of all amounts reported on line 18 for all properties	23d	7,546		
e	Total of all amounts reported on line 20 for all properties	23e	38,134		
24	Income. Add positive amounts shown on line 21. Do not include any losses	24		4,759	
25	Losses. Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	25	(5,063)		
26	Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Form 1040, line 17, or Form 1040NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26		(304)	

For Paperwork Reduction Act Notice, see the separate instructions.

Schedule E (Form 1040) 2014

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